

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants:	George R. Borden, IV et al.	Group Art Unit: 2621
App. No.:	09/505,449	Examiner: Czekaj, David J.
Filed:	February 16, 2000	Conf. No.: 5400
Customer No.	55648	
Title:	METHOD OF SELECTING TARGETS AND GENERATING FEEDBACK IN OBJECT TRACKING SYSTEMS	

APPELLANT'S REPLY BRIEF

Chernoff, Vilhauer, McClung, and Stenzel, L.L.P.
601 SW Second Avenue, Suite 1600
Portland, Oregon 97204

July 30, 2010

Mail Stop APPEAL BRIEF-PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

BACKGROUND

This brief is in furtherance of the Notice of Appeal filed in this case on March 20, 2009, and the Appeal Brief filed May 18, 2009, and responds to the Examiner's Answer mailed June 8, 2010.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN THE APPLICATION

There are 20 claims currently pending in the application.

B. STATUS OF ALL CLAIMS

Claims canceled: 21-26, 30-32

Claims withdrawn: 27-29

Claims pending: 1-20

Claims allowed: None

Claims objected to: None

Claims rejected: 1-20

C. CLAIMS ON APPEAL

Claims 1-20 are on appeal.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection presented for review are whether claims 1-20 are unpatentable under 35 U.S.C. §103(a) over Ito, U.S. Pat. No. 6,404,455 in view of Loveland, U.S. Pat. No. 6,437,819.

ARGUMENT

The Examiner rejected claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over Ito, U.S. Patent No. 6,404,455 in view of Loveland, U.S. Patent No. 6,437,819. In the Appeal Brief filed May 18, 2010, the Applicants argued that the Examiner's rejection was improper because in the combination cited, a camera automatically magnifies the view of an image upon a target to be tracked *after* that target has been identified, either manually or automatically. See Appeal Brief filed May 18, 2009 at pp. 4-5 (hereinafter Appeal Brief); See *Id.* at p. 6. The Examiner concedes that this interpretation is correct. See Examiner's Answer at p. 3 ("Ito discloses an apparatus that . . . comprises 'initiating the object tracking system' . . . wherein the initiation *is the detection of objects* which initiates the object tracking . . . [and discloses] automatically increasing magnification [of] a recorded sequence of frames of an image in response to" that detection of an object)(emphasis added).

In contrast, independent claim 1 includes the limitations of "automatically increasing magnification of a recorded sequence of frames of an image in response to initiating said object tracking system" and "receiving a user selection of an object of interest . . . *while said image is being automatically increased in magnification* in response to said initiating said tracking system." It is this latter limitation that the Applicants have argued is neither disclosed nor made obvious by the cited combination. See Appeal Brief at p. 5 ("In other words, the disclosure of Ito indicates that the automated act of zooming a camera lens occurs in response to the identification of the object upon which the lens needs to be zoomed, and not as a *precursor* to a manual identification of an object, as is claimed by the applicant") (emphasis in original). Thus,

Ito fails to disclose the temporal sequence being claimed by the applicant – initiate the tracking system, then automatically zoom in, and then identify the target while zooming in.

The citation by the Examiner to Loveland does not change the foregoing functionality of Ito because Loveland also discloses magnification upon an object already identified, the only difference being that in Loveland the object is manually identified rather than automatically identified. See Loveland at col. 3 lines 56-65 (“The tracking system is activated by the guard who uses the mouse to click on a person . . . in a field of view of [the Pan Tilt Zoom] camera. . . . The tracking system then takes over control of the panning and zooming function of the PTZ camera . . . moving and focusing it so as to keep the shopper in constant view of the camera.”) (reference numerals omitted); see *also Id.* at col. 4 lines 49-51 (disclosing that the image is automatically zoomed to ensure that “the shopper’s image fills a reasonably large part of the image.”) The Examiner appears to cite Loveland merely for its ancillary disclosure of zooming out if a confidence that a target is continuing to be tracked falls below a threshold.

The Examiner responds by mischaracterizing the applicant’s argument as merely averring that “Ito fails to disclose automatically increasing magnification of a sequence of frames of an image in response to initiating the tracking system free from further user input while the tracking system is activated.” See Examiner’s Answer at p. 5. This was not the applicant’s argument. The applicant assumed the correctness of the Examiner’s reading of limitation (b) of claim 1 on Ito’s disclosure of automatically zooming in on an identified object, but then argues that given this reading, the

combination of Ito and Loveland would not disclose limitation (c), which requires that the identification of the object to be tracked occur *during* the zooming operation. The Examiner has made no response to this argument. Instead, the Examiner merely reiterates the applicant's point that "Ito discloses in column 12, lines 21-29, that *upon detecting an entering object*, a zoom control signal is generated which automatically magnifies the image on the screen." See Examiner's Answer at p. 5 (emphasis added).

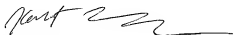
Finally, the applicant notes that The Examiner cites no disclosure in either Ito or Loveland where an object of interest is selected during a zooming operation begun by initiating an object tracking system. The Examiner does make the assertion that "Loveland discloses 'selecting an object of interest while the tracking system is activated and while the image is being magnified'" See Examiner's Answer at p. 4. The Examiner provides no support in the disclosure of Loveland for this assertion, however, and in fact, the portion of Loveland to which the Examiner cites specifically indicates that the selection of a person to be tracked is a *precursor* to the operation of zooming in, not *vice versa* as claimed. See Loveland at col. 3 lines 56-65; See also *Id.* at col. 4 lines 41-52 ("[T]he guard 70 selects this individual by clicking on him/her in the image . . . The zoom factor is controlled by zooming in to the point where the shopper's image fills a reasonably large part of the image, but does not exceed its boundaries.").

For these reasons, independent claim 1 and its dependent claims 2-20 patentably distinguish over the cited prior art combination of Ito and Loveland, and the Examiner's rejection of these claims under 35 U.S.C. § 103(a) should be reversed.

CONCLUSION

The Examiner's respective rejections of claims 1-20 should be reversed, and the claims should be found patentable.

Respectfully submitted,



Dated: July 30, 2010

Kurt Rohlf
Reg. No. 54,405
Attorney for Applicants
Telephone: (503) 227-5631